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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS

Written statement submitted by the World Federation of Democratic Youth, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

(15 August 1995)

1. The World Federation of Democratic Youth would like to applaud Mr. Glèlè-Ahanhanzo's report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance encountered on his mission to the United States of America (E/CN.4/1995/78/Add.1). We believe that Mr. Glèlè-Ahanhanzo's report is an accurate representation of the current situation within the United States.

2. We applaud the United States for signing the International Convention on the Elimination of All Forms of Racial Discrimination, however, it is very unfortunate for the individual citizen that the United States failed to ratify article 14.

3. As Mr. Glèlè-Ahanhanzo's report demonstrated, racism and racial discrimination exist within developed countries. It should be noted that the main report of the Special Rapporteur (E/CN.4/1995/78) addresses numerous racist and xenophobic incidents which occurred in Austria, Germany, Italy, the Netherlands, Norway, Sweden and Switzerland, despite laws which purport to address violence against ethnic minorities. Due to inadequate funding and time constraints, Mr. Glèlè-Ahanhanzo has not been able to visit these countries. It is for this reason that we must focus on the United States of America.

4. The report addressing the United States stated that in an independent study carried out by the American Jewish Committee of 4,755 offences listed by the Department of Justice, more than 75 per cent of the hate crimes that were racially motivated were directed at African Americans. Affirmative action, with its goal of addressing the economic and social disparities of minorities within the United States, has failed in its objective. Past systematic discrimination must be corrected in order to reach the goal required by contemporary international law: the equal enjoyment of human rights and fundamental freedoms.

5. It is up to the Government to enact and enforce laws which adequately encourage basic human rights for all races. Often the protection of freedom of expression is used as an excuse. While it is true that freedom of expression is a right deserving of protection, it is also necessary to curtail rights in order to protect basic human rights. An example is the fact that one does not have the right, even under freedom of expression, to yell "fire" in a crowded theatre because the greater harm to society outweighs personal freedom of expression.

6. The problem of migrant workers within the United States is so prevalent that the Government of Mexico took advantage of the Special Rapporteur's presence in the United States to inform him of the problems faced by migrant workers and Mexican immigrants, particularly in California (E/CN.4/1995/78/Add.1). Racial discrimination and racism have been codified by the voters of the State of California with Proposition 187.

7. Proposition 187 is directly contrary to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in that it allows the denial of access to public social services even to those suspected of being undocumented aliens. This is of particular concern because preventing illegal aliens access to medical care could lead to the spread of communicable diseases, thus jeopardizing the public at large. It requires suspected undocumented aliens to be reported to the Immigration and Naturalization Service and to the state Attorney-General, and requires the public school system to verify the immigration status of the parents before admitting their children to school even if the child is a United States citizen.

8. Aside from gross human rights violations like death, violations of physical integrity and unlawful deprivation of liberty, migrant workers also face serious health hazards from chemical pesticides used to treat the crops they maintain and/or harvest.

9. While the United States professes adherence to human rights, the opposite is practised. The Secretary-General's 1994 report on the subjected stated that:

> "It emerges from the text that, to be effective, a law against racism and racial discrimination must repress the following offences:
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> (a) Racial discrimination committed in exercise of freedom of opinion and expression;
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> (b) Acts of violence and incitement to racial violence;
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> (c) Racist organizations and activities;
>
> (d) Offences committed by public officials or other servants of the State;
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> (e) Offences committed in employment, education, housing and the provision of facilities and services" (E/CN.4/Sub.2/1994/12, para. 23).

Mr. Eide in his report concluded that the universally proclaimed interdependence and indivisibility of civil and political rights and economic, social and cultural rights are not yet fully established in the United States.

10. Mr. Glèlè-Ahanhanzo in his first recommendation states, "It should be explicitly acknowledged that 30 years of intense struggle against racism and racial discrimination have not yet made it possible to eliminate the consequences of over 300 years of slavery and racial discrimination, particularly where African Americans are concerned". Considering this independent observation, we would ask that the Sub-Commission recommend that the working group on minorities, the working group on the administration of justice and the question of compensation and the Special Rapporteur on racism, racial discrimination, xenophobia, and related intolerance work together as a cohesive body, considering the similarity of their mandates. We also recommend a comprehensive study of the human rights situation in the communities of descendants of African slaves throughout the New World to determine the ongoing negative effects of slavery based on the Sub-Commission's power to consider, as noted in the Secretary-General's report, the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials, as well as a significant pattern of racial discrimination evidenced in social and economic indicators, as early warning criteria.

11. We implore the Sub-Commission to take immediate action to ensure that the situation within the United States does not erupt in further violence like that witnessed in the Los Angeles riots and/or a situation like the former Yugoslavia or Rwanda.